

## Interview Summary

Application No.

08/791,240

Applicant(s)

Alexander J. Ryncarz

Examiner

Bradley L. Sisson

Group Art Unit

1634



All participants (applicant, applicant's representative, PTO personnel):

page 1 of 3

(1) Bradley L. Sisson(3) Linda Buckley, Reg. No. 31,003(2) Robert L. Buchanan, Reg. No. 40,927

(4) \_\_\_\_\_

Date of Interview 26 Oct 1998Type: ☒ Telephonic ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative).Exhibit shown or demonstration conducted: ☐ Yes ☒ No. If yes, brief description:Agreement ☒ was reached. ☐ was not reached.Claim(s) discussed: 1-58

Identification of prior art discussed:

Mullis (US Patent 4,683,202); Davis et al. (US Patent 5,391,480); Kiessling (US Patent 5,618,664); and Gillespie (US Patent 5,627,054).

Description of the general nature of what was agreed to if an agreement was reached, or any other comments:

Mr. Buckley indicated that applicant is prepared to file a declaration and amend the specification to reflect a claim for benefit of priority to a provisional application that was filed in January 1996. Mr. Sisson indicated that such a claim for priority would effectively remove the Gillespie reference as available prior art which has an effective filing date of April 5, 1996. Mr. Sisson indicated that the result of overcoming Gillespie would require a further search. Mr. Buchanan indicated that they would consider filing a CPA. Mr. Sisson expressed concern over claim 1 not reciting sufficient method steps as no means nor active step is recited whereby one would be able to effect a primer extension when the 3' terminus is not hybridized to the template nucleic acid. Mr. Buchanan and Ms. Buckley indicated that they will cause to be faxed to the PTO tomorrow proposed language for claim 1.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

1. ☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a response to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

2. ☐ Since the Examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the interview unless box 1 above is also checked.

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Mr. Sisson expressed concern over the aspect of "substantially identical" being indefinite. In response to Mr. Buchanan pointing to page 46, lines 3-11, of the specification (see also the response of 05 October 1998 at page 4, last paragraph), Mr. Sisson pointed to how that definition does not fit the current usage of the term in at least the instance of claim 11. Mr. Sisson suggested that if the specification does not provide a clear definition of this usage of the term, then alternative wording could possibly be adopted which would more clearly communicate the aspect that applicant is trying to delineate.

Mr. Sisson indicated that the aspect of performing competitive, non-competitive, nested and multiplex-PCR was all known in the art at the time the invention was made. Mr. Sisson pointed to how claim 58 is considered to embody a competitive

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form of amplification as one has a first and second primers that "are the same" while claim 2 is considered to embody a non-competitive form of amplification as the two primers are being directed to different target polynucleotide sequences.

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